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**JUN 28 2005**

**OFFICE OF PETITIONS**

Neifeld IP Law, PC  
4813-B Eisenhower Avenue  
Alexandria, Va 22304

In re Application of  
Matsumoto.  
Application No. 09/830,588  
Filed: May 29, 2001  
Attorney Docket No. Hash0011/U/PCT/US

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: **DECISION GRANTING APPLICATION**  
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This decision is in response to applicant's application titled "37 CFR 1.705 APPLICATION FOR PATENT TERM ADJUSTMENT" timely<sup>1</sup> filed on September 20, 2004 requesting that the Patent Office adjust the amount of days granted at the time of the notice of allowance from 347 to 454 days.

Applicant's application for PTA is **GRANTED**. The Office will adjust the PAIR calculation to reflect that the correct determination at the time of the mailing of the notice of allowance is four hundred and fifty-four (454) days.

Applicant notes that the Office incorrectly assessed a one hundred and seven day (107) delay by applicant for failing to reply to the Office's mailing of a non-final rejection within three months of the mailing of the Office action. Applicant asserts that the Office remailed the Office action on January 29, 2004 restarting the time period. Accordingly, the applicant asserts that the applicant did not fail to engage in any reasonable efforts to conclude prosecution of the application because they responded within three months of the remailed action.

Applicant arguments are persuasive. The Office mailed an Office action on October 6, 2003 but then mailed another Office action on January 29, 2004 which gave applicant three months to respond. Applicant responded within three months on April 22, 2004. Accordingly, applicant did not fail to engage in reasonable efforts to conclude prosecution of the application. The one hundred and seven (107) day reduction to patent term adjustment is an error. The Office further notes that applicant correctly received 454 days of PTA for the Office's failure to initially act upon the application within 14 months as required. See 37 CFR 1.702(a)(1). Therefore, the correct amount of patent term at the time of the mailing of the notice of allowance is four hundred and fifty-four (454) days.

The Office acknowledges the payment of the \$200.00 fee for this application. No additional fees are required.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publication for a prompt issuance of this patent application. Any delays in issuance of the patent

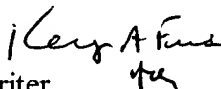
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<sup>1</sup>Issue fee paid on 9-20-2004.

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will be reflected in the PTA calculation provided with the issue notification letter

Any questions concerning this matter should be directed to Kery Fries, Senior Legal Advisor,  
Office of Patent Legal Administration, at 571-272-7757.

  
Karin Ferriter  
Senior Legal Advisor  
Office of Deputy Commissioner  
for Patent Examination Policy

cc: Copy of Adjusted PAIR calculation